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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,158	07/19/2001	Marian Vitale	J6634(C)	8824

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EXAMINER

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,158

Applicant(s)

VITALE ET AL.

Examiner

Jonathan Ouellette

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20030801.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by McFarlin et al. (US 2002/0023001 A1).**
3. As per **independent Claim 1**, McFarlin discloses a computer implemented artwork management system for distributing and controlling artwork in a computer system (abstract, distribution and control of marketing materials), comprising: an information collection system (Para 0058, Project Management System) for compiling pre-mechanical specification information according to a predefined procedure from a plurality of agents to create a data file (Para 0058, PMS gather retail establishment's order, including design elements); a coordination system connected to said information collection system for creating a mechanical artwork design data file incorporating said specification information and identifying an internal or an external agent for creating said mechanical artwork (Para 0058, job ticket sent to graphic artist including retail establishment design elements), reviewing said mechanical artwork, and routing said

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mechanical artwork according to a predefined procedure (Para 0058); a reviewing system connected to said coordination system for compiling, exchanging and reviewing information from a plurality of agents concerning said mechanical artwork data file according to a predefined procedure (Para 0058); an approval system connected to said organization system for evaluating said critical information contained in said data file, requesting changes to said mechanical artwork (Para 0058), and approving said mechanical artwork for production according to a predefined procedure (Para 0058, appropriate approval obtained); a production system connected to said review system for assigning approved mechanical artwork by transmitting said data file to at least one external agent for production (Para 0083, Final order transmitted to Printer).

4. As for the limitations of the functions of the system or what the system does, i.e.

“wherein said plurality of internal agents communicate using an internal data transmission and computer system and communicate with said at least one external agent using an external data transmission and computer system which is separated from said internal computer system by a control device; and wherein all internal data filed uploaded to said external computer by said internal agents are automatically replicated on said external computer system as external data files which duplicate said internal data files.”, these carry no patentable weight in an apparatus claim. Apparatus claims should cover what a device is or structures or structural elements, not what a device does. See *Hewlett-Packard Co. vs. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

5. As for Dependent Claims 3-15, which further deal with other functions of the system, they are rejected for the same reason set forth in Claim 1 above.
6. As per Claim 2, McFarlin discloses wherein said information system has an information collection *facility* (Fig. 18, webLSM Host) and a project creation *facility* (Fig. 18, Printer).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
8. **Claims 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarlin in view of Han et al. (US 2002/0052807 A1).**
9. As per **independent Claim 16**, McFarlin discloses a method for distributing and controlling artwork in a computer system (abstract, distribution and control of marketing materials), comprising: collecting pre-mechanical specification information according to a predefined procedure from a plurality of agents to create a data file (Para 0058, Project Management System collects order information); creating an artwork production scheme incorporating said pre-mechanical specification information (Para 0058, PMS gather retail establishment's order, including design elements); identifying an internal or external agent for producing mechanical artwork (Para 0058, job ticket sent to graphic artist including retail establishment design elements); approving said mechanical artwork

according to a predefined procedure (Para 0058; appropriate approval obtained); transmitting said mechanical artwork to a production facility according to a predefined procedure (Para 0083, Final order transmitted to Printer); compiling critical information between a plurality of internal (Corporate/Franchise/Retail) and external agents (Graphic designer/Printer) concerning said mechanical artwork according to a predefined procedure (Para 0058, Para 0083); exchanging critical information between a plurality of internal and external agents concerning said mechanical artwork according to a predefined procedure (Para 0083, Final order approved by Corporate transmitted to Printer).

10. McFarlin discloses providing network based communication between the users of the system (Fig. 17); however, McFarlin fails to expressly disclose wherein said plurality of internal agents communicate *using* an internal data transmission and computer system and communicate with said at least one external agent using an external data transmission and computer system which is separated from said internal computer system by a control device; and wherein all mechanical artwork information contained in internal data filed uploaded to said external computer by said internal agents are automatically replicated one said external computer system as external data files which duplicate said internal data files.
11. Han discloses a design to order/product design system with network communication capability to include internal communications (Para 0019, LAN) and external communication (Para 0019, Internet) separated by a control device (Para 0019, Internet

with authorization; Fig. 4B, Gateway/Firewall). Furthermore, automatic replication of data would inherently be part of downloading information (file copying) over a network.

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein said plurality of internal agents communicate *using* an internal data transmission and computer system and communicate with said at least one external agent using an external data transmission and computer system which is separated from said internal computer system by a control device; and wherein all mechanical artwork information contained in internal data files uploaded to said external computer by said internal agents are automatically replicated on said external computer system as external data files which duplicate said internal data files, as disclosed by Han in the system disclosed by McFarlin, for the advantage of providing a method for distributing and controlling artwork in a computer system, with the ability to increase system efficiency/effectiveness by including several forms of network communication capabilities.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
14. The following foreign patent is cited to show the best foreign prior art found by the examiner:

UK Pat. No. **GB 2171876 A** to BRUNSTEIN et al.

Brunstein discloses a system for storing Printed circuit board designs, and later transmitting the designs to a laser plotter.

15. The following non-patent literature is cited to show the best non-patent literature prior art found by the examiner:

Quinn, James Brian, "Outsourcing innovation: The new engine of growth," Sloan Management Review, v41n4, pp: 13-28, Summer 2000.

Quinn discloses several outsourcing systems/methods used by companies, including design and production.

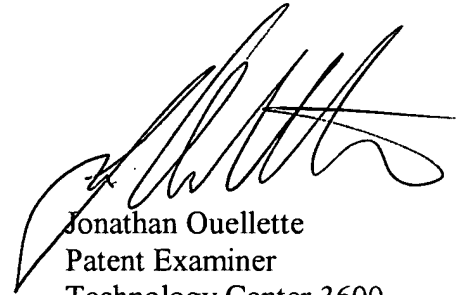
16. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

June 29, 2005



Jonathan Ouellette
Patent Examiner
Technology Center 3600